

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOSHUA AND WANDA AKERS

(b) County of Residence of First Listed Plaintiff Davidson County, TN
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
G. Thomas Martin, III (SBN 218456) PRICE LAW GROUP, APC
15760 Ventura Blvd., #1100, Encino, CA 91436
Telephone: (818) 907-2030

DEFENDANTS

DIVERSIFIED COLLECTION SERVICES, INC.;
and DOES 1-10 inclusive;County of Residence of First Listed Defendant Alameda County, CA

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Foreign Country				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 381 Property Damage Product Liability	<input type="checkbox"/> 490 Cable/Sat. TV	<input type="checkbox"/> 490 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 850 Other Statutory Actions	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> Habeas Corpus: 530 General	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 462 Naturalization Application		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 465 Other Immigration Actions		
<input type="checkbox"/> 448 Education				

V. ORIGIN

(Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or 5 Transferred from another district (Specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692Brief description of cause:
Unlawful Debt Collection Practices

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23DEMAND \$
According to ProofCHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S)

IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

 SAN FRANCISCO/OAKLA ND SAN JOSE EUREKA

DATE 05/21/2012

SIGNATURE OF ATTORNEY OF RECORD

1 G. Thomas Martin, III (SBN 218456)
2 **PRICE LAW GROUP, APC**
3 15760 Ventura Blvd., Suite 1100
4 Encino, CA 91436
5 Direct Dial: (818) 907-2030
6 Fax: (818) 205-3730
7 tom@plglawfirm.com
8 Attorneys for Plaintiffs,
9 JOSHUA AND WANDA AKERS

FILED
MAY 29 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSHUA AND WANDA AKERS,

Plaintiffs,

vs.

DIVERSIFIED COLLECTION
SERVICES, INC.; and DOES 1 to 10,
inclusive,

Defendants.

Civil Case No.: **C12-02716**

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

COMPLAINT AND DEMAND FOR JURY TRIAL

INTRODUCTION

1. This is an action for actual and statutory damages brought by plaintiffs Joshua
Akers and Wanda Akers, individual consumers, against defendant Diversified
Collection Services, Inc., for violations of the Fair Debt Collection Practices Act,
15 U.S.C. § 1692 *et seq.* (hereinafter “FDCPA”) and the Rosenthal Fair Debt
Collection Practices Act, Cal. Civ. Code §§ 1788 *et seq.* (hereinafter “RFDCPA”),

1 which prohibit debt collectors from engaging in abusive, deceptive, and unfair
2 practices.

3 **JURISDICTION**
4

5 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ. Code §§
6 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is proper in that
7 the Defendant transacts business here and the conduct complained of occurred
8 here.

9
10 **PARTIES**
11

12 3. Plaintiff, Joshua Akers is a consumer, a natural person allegedly obligated to
13 pay any debt, residing in the state of Tennessee.

14 4. Plaintiff, Wanda Akers is a consumer, a natural person allegedly obligated to
15 pay any debt, residing in the state of Tennessee.

16 5. Defendant, Diversified Collection Services, Inc. is a corporation engaged in the
17 business of collecting debt in this state with its principal place of business located
18 in Alameda County at 333 North Canyons Parkway, Suite 100, Livermore,
19 California 94551. The principal purpose of Defendant is the collection of debts in
20 this state and Defendant regularly attempts to collect debts alleged to be due
21 another.

22 6. Defendant is engaged in the collection of debts from consumers using the mail
23 and telephone. Defendant regularly attempts to collect consumer debts alleged to
24

1 be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15
2 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.

3 **FACTUAL ALLEGATIONS**
4

5 7. Upon information and belief, within one year prior to the filing of this
6 complaint, Defendant placed collection calls to Plaintiffs, seeking and demanding
7 payment for an alleged consumer debt owed under an account number.
8

9 8. The debt that Defendant is attempting to collect on is an alleged obligation of a
10 consumer to pay money arising out of a transaction in which the money, property,
11 insurance or services which are the subject of the transaction are primarily for
12 personal, family, or household purposes, whether or not such obligation has been
13 reduced to judgment.
14

15 9. Upon information and belief, Defendant began contacting Plaintiffs and placing
16 collection calls to Plaintiffs prior to May 10, 2012.
17

18 10. Upon information and belief, within one year of the filing of this complaint,
19 Defendant threatened to garnish both Plaintiffs’ wages itself, when it cannot do so.
20

21 11. Upon information and belief, within one year of the filing of this complaint,
22 Defendant threatened to sue Plaintiff Joshua Akers, as well as to take his income
23 tax returns, when it cannot do so.
24

25 12. Defendant, during communications with Plaintiffs, within one year from the
26 filing of this complaint, did not state that Defendant was a debt collector,
27

1 attempting to communicate a debt, and that any information would be used for that
2 purpose.

3 13. As a result of the acts alleged above, Plaintiffs suffered emotional distress
4 resulting in Plaintiffs feeling stressed, and embarrassed, amongst other negative
5 emotions.

6 **FIRST CLAIM FOR RELIEF**

7 14. Plaintiffs repeat and reallege and incorporate by reference to the foregoing
8 paragraphs.

9 15. Defendant violated the FDCPA. Defendant's violations include, but are not
10 limited to, the following:

11 (a) Defendant violated §1692f of the FDCPA by using unfair or
12 unconscionable means in connection with the collection of an
13 alleged debt; and

14 (b) Defendant violated §1692e(10) of the FDCPA by using false,
15 deceptive, or misleading representation or means in connection
16 with the collection of Plaintiff's alleged debt; and

17 (c) Defendant violated §1692e(2)(B) of the FDCPA by falsely
18 representing the services rendered or compensation which may be
19 lawfully received by the Defendant for the collection of the alleged
20 debt; and

1 (d) Defendant violated §1692e(5) of the FDCPA by threatening to
2 take action that it did not intend to take; and
3
4 (e) Defendant, during communications with Caroline, within one year
5 from the filing of this complaint, did not state that Defendant was a
6 debt collector, attempting to communicate a debt, and that any
7 information would be used for that purpose; and
8
9 (f) Defendant violated §1692e(11) of the FDCPA by failing to
10 disclose in the oral communications with Plaintiffs that the
11 communications were from a debt collector, and that the debt
12 collector was attempting to collect a debt, and that any information
13 obtained would be used for that purpose, when said
14 communications were not formal pleadings.

15
16 17. As a result of the foregoing violations of the FDCPA, Defendant is liable to the
18 plaintiffs Joshua Akers and Wanda Akers for actual damages, statutory damages,
19 and costs and attorney fees.

20
21 **SECOND CLAIM FOR RELIEF**
22

23 17. Plaintiffs repeat and realleges and incorporates by reference the foregoing
24 paragraphs.

25 18. Defendant violated the RFDCPA. Defendant's violations include, but are not
26 limited to the following:

1 (a) Defendant violated §1788.11(d) of the RFDCPA by causing a
2 telephone to ring repeatedly or continuously to annoy the person
3 called; and
4

5 (b) Defendant violated §1788.11(e) of the RFDCPA by
6 communicating by telephone with the debtor to constitute an
7 harassment to the debtor; and
8

9 (c) Defendant violated §1788.13(j) of the RFDCPA by falsely
10 representing that a legal proceeding would be instituted unless
11 payment of a consumer debt is made; and
12

13 (d) Defendant violated §1788.17 of the RFDCPA by being a debt
14 collector collecting or attempting to collect a consumer debt that is not
15 compliant with the provisions of Sections 1692b to 1692j of the
16 FDCPA, the references to federal codes in this section referring to
17 those codes as they read as of January 1, 2001.
18

19 19. Defendant's acts as described above were done intentionally with the purpose
20 of coercing Plaintiffs to pay the alleged debt.
21

22 20. As a result of the foregoing violations of the RFDCPA, Defendant is liable to
23 the plaintiffs Joshua Akers and Wanda Akers for actual damages, statutory
24 damages, and costs and attorney fees.
25

1 WHEREFORE, Plaintiffs Joshua Akers and Wanda Akers respectfully requests
2 that judgment be entered against defendant Diversified Collection Services, Inc.
3 for the following:
4

- 5 A. Actual damages.
- 6 B. Statutory damages pursuant to 15 U.S.C. § 1692k.
- 7 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.
- 8 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and
9 Cal. Civ. Code § 1788.30.
- 10 E. For such other and further relief as the Court may deem just and proper.
11

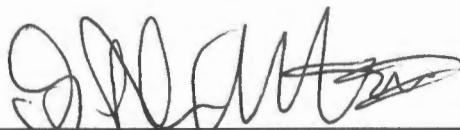
13 **DEMAND FOR JURY TRIAL**

14 Please take notice that plaintiffs Joshua and Wanda Akers demand trial by
15 jury in this action.
16

17
18 RESPECTFULLY SUBMITTED,
19 PRICE LAW GROUP APC
20

21 DATED: May 21, 2012

22 By: _____



23 G. Thomas Martin, III
24 Attorney for Plaintiff
25
26
27
28